UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE CITY DIVISION 3:11CV595-RJC

DONALD R. OAKES JR.,)
Plaintiff,)
v.)
RODNEY MONROE et al.,)
Defendant.)

THIS MATTER comes before the Court on Plaintiff's Motion for Voluntary Dismissal. (Doc. No. 3). Petitioner requests that this Court dismiss his Complaint, (Doc. No. 1), filed on November 21, 2011, pursuant to 42 U.S.C. § 1983, without prejudice.

Rule 41 of the Federal Rules of Civil Procedure allows a plaintiff to voluntarily dismiss his action without a court order prior to the opposing party serving either an answer or a motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(A). In the instant case, Defendants have not yet been served and therefore no answer or dispositive motion has been filed. Therefore, Plaintiff's Motion is GRANTED.

IT IS, THEREFORE, ORDERED that:

- (1) Plaintiff's Motion for Voluntary Dismissal (Doc. No. 3) is GRANTED;
- (2) Plaintiff's Complaint is dismissed without prejudice;
- (3) The Court's previous Order for Prisoner Trust Account Statement (Doc No. 2) is Withdrawn; and
- (4) The Clerk is directed to send a copy of this Order to the pro se Plaintiff.

Signed: December 15, 2011

Robert J. Conrad, Jr. Chief United States District Judge